



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47600, Olympia, WA 98504-7600 • 360-407-6000

November 2, 2022

MBR Geoduck LLC
Attn: Troy Baker
13544 NE Betts Road
Vancouver, WA 98686

Re: Water Quality Certification Order No. 21426 for Corps Reference No. 202100862, MBR Geoduck LLC, Mason County, Washington

Dear Troy Baker:

On September 13, 2022, MBR Geoduck LLC submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for MBR Geoduck LLC located on tidelands within Totten Inlet, near Shelton, Mason County, Washington.

On behalf of the state of Washington, the Department of Ecology certifies that the work described in the Joint Aquatic Resource Permit Application (JARPA) and the public notice complies with applicable provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act, as amended, and applicable state laws. This certification is subject to the conditions contained in the enclosed Order.

Please ensure that anyone doing work under this Order has read, is familiar with, and is able to follow all of the provisions within the attached Order.

If you have any questions about this decision, please contact Teresa Pucylowski by e-mail at teressa.pucylowski@ecy.wa.gov. The enclosed Order may be appealed by following the procedures described within the Order.

Sincerely,

Brenden McFarland, Section Manager
Environmental Review and Transportation Section
Shorelands and Environmental Assistance Program

Order No. 21426, Corps No. 202100862

Aquatics No. 140102

November 2, 2022

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Enclosure

E-cc: Kylie Webb, U.S. Army Corps of Engineers
Stephanie Jones, Pearl Environmental Consulting
Loree' Randall, Ecology
Teresa Pucylowski, Ecology
ecyrefedpermits@ecy.wa.gov
Aquaculture-Reinforcement-Team@usace.army.mil



IN THE MATTER OF GRANTING A WATER) WQC ORDER No. 21426
QUALITY CERTIFICATION TO) Corps Reference No. 202100862
MBR Geoduck LLC) MBR Geoduck LLC located on tidelands within
pursuant to 33 U.S.C. 1341 (FWPCA) Totten Inlet, near Shelton, Mason County,
§ 401), RCW 90.48.120, RCW 90.48.260) Washington
and Chapter 173-201A WAC)

MBR Geoduck LLC
Attn: Troy Baker
13544 NE Betts Road
Vancouver, WA 98686

On September 13, 2022, MBR Geoduck LLC submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for MBR Geoduck LLC County, Washington. The U.S. Army Corps of Engineers (Corps) issued a joint public notice on September 30, 2022.

This project proposes to continue cultivating Manila clams on approximately 2.18 acres of privately owned tidelands between +5.0 feet and -2.0 feet Mean Lower Low Water (MLLW). There is no vegetation within the project area and access to the sites occur via boat or the uplands. Geoduck is no longer cultivated at any of the sites. The grower intends to obtain an after-the-fact permit for previously unauthorized activity.

Juvenile Manila clams are placed a thin layer of sand on sheets of plywood attached to a temporary float for approximately two months (moored on parcel 31910-12-80153 mid-May to mid-September). The shellfish are then placed onto the sediment and allowed to grow for three years. To deter predators, clam nets approximately 14 ft x 20 ft are secured over the seeded substrate with rebar hooks throughout the duration of their cultivation cycle. The mature shellfish are harvested by hand and placed in plastic mesh bags, which are carried by hand to the boat for removal to MBR Geoduck's upland shop. Harvest occurs year-round.

Approximately 5 cubic yards of washed pea gravel from a local commercial dealer in Shelton, WA will be added to enhance setting substrate between 972 and 1620 square feet annually within portions of the following parcels: 31910-12-80522, 31910-12-80150, 31910-11-80010, and 31910-11-80910. Small sections may have gravel added more than once, but not more than one inch per year and not all parcels would require annual graveling. Gravel is placed in small buckets and distributed onto the tideland property by hand.

The project site is located on tidelands within Little Skookum Inlet and Totten Inlet, on parcel numbers 22032-50-00025, 31910-12-80150, 31910-11-80010, 31910-12-80522, 31911-12-00070, and 31910-11-80910, near Shelton, Mason County, Washington; Section 10, Township 19 North, Range 3 West; WRIA 14, Kennedy-Goldsborough Watershed.

With this Order, Ecology is granting MBR Geoduck LLC's request for a Section 401 Water Quality Certification for the MBR Geoduck LLC project, provided that the activity is conducted in

accordance with the Section 401 Water Quality Certification request and attachments Ecology received on September 13, 2022.

Based on the information submitted, Ecology has determined that the discharge from the project will comply with state water quality requirements. Prior to undertaking any changes that materially alter the project, MBR Geoduck LLC must contact Ecology to determine whether a new Section 401 Water Quality Certification is required.

Issuance of this Section 401 Water Quality Certification for this proposal does not authorize MBR Geoduck LLC to exceed applicable state water quality standards (Chapter 173-201A WAC), ground water quality standards (Chapter 173-200 WAC) or sediment quality standards (Chapter 173-204 WAC). Furthermore, nothing in this Section 401 Water Quality Certification absolves the Applicant from liability for contamination and any subsequent cleanup of surface waters, ground waters, or sediments resulting from project construction or operations.

Special Condition:

Any work that causes distressed or dying fish or discharges of oil, fuel, or other chemicals into state waters or onto land with a potential for entry into state waters is prohibited¹. If such work, conditions, or discharges occur, immediately notify² Ecology's Regional Spill Response Office at 360-407-6300 and the Washington State Department of Fish & Wildlife with the nature and details of the problem, any actions taken to correct the problem, and any proposed changes in operation to prevent further problems. You will also need to notify the Washington Emergency Management Division³ at 1-800-258-5990, for actual spills to water only. This condition is necessary to prevent oil and hazardous materials spills from causing environmental damage and to ensure compliance with water quality requirements. The sooner a spill is reported, the quicker it can be addressed, resulting in less harm.

In view of the foregoing and in accordance with 33 U.S.C. §1341, RCW 90.48.120, RCW 90.48.260 Chapter 173-200 WAC and Chapter 173-201A WAC, this WQC is granted to the MBR Geoduck LLC project.

This Certification is not effective until the U.S. Corps of Engineers (Corps) Seattle District issues an individual Department of the Army (DA) permit for this project. Order No. **21426** will remain valid for the duration of the associated DA permit. MBR Geoduck LLC should send a copy of the final DA permit to fednotification@ecy.wa.gov within two weeks of receiving it.

¹ RCW 90.48

² WAC 173-303-145

³ RCW 90.56.280

Your right to appeal

You have a right to appeal this Order to the Pollution Control Hearings Board (PCHB) within 30 days of the date of receipt. The appeal process is governed by RCW 43.21B and WAC 371-08. "Date of receipt" is defined in RCW 43.21b.001(2). More information is available at <https://eluhwa.gov/content/11>.

To appeal, you must do all of the following within 30 days of the date of receipt of this Order:

- File your notice of appeal and a copy of this Order with the PCHB (see filing options below). "Filing" means actual receipt by the PCHB during regular business hours as defined in WAC 371-08-305 and -335. "Notice of appeal" is defined in WAC 371-08-340.
- Serve a copy of your notice of appeal and this Order on the Department of Ecology, in paper form, by mail or in person (see addresses below). E-mail is not accepted.

You must also comply with other applicable requirements in RCW 43.21B and WAC 371-08.

Filing an appeal with the PCHB:

For the most current information regarding filing with the PCHB, visit:
<https://eluhwa.gov/content/11>

Filing by mail

Mailing Address:

Pollution Control Hearings Board
PO Box 40903
Olympia, WA 98504-0903

Filing in person (or by certified mail/courier)

Street Address:

Pollution Control Hearings Board
1111 Israel RD SW, STE 301
Tumwater, WA 98501

Filing electronically

E-mail Address:

Pchb-shbappeals@eluhwa.gov

Serving a copy of the appeal on Ecology:

Electronic copies of appeals are not accepted at the Department of Ecology per WAC 371-08-305(10)

Filing by mail

Mailing Address:

Department of Ecology
Attn: Appeals Processing Desk
PO Box 47608
Olympia, WA 98504-7608

Filing in person (or by certified mail/courier)

Street Address:

Department of Ecology
Attn: Appeals Processing Desk
300 Desmond Drive SE
Lacey, WA 98503

Contact Information

Please direct all questions about this Order to:

Teresa Pucylowski
Department of Ecology
PO Box 47600
Olympia, WA 98504-7600
teressa.pucylowski@ecy.wa.gov

More Information

- **Pollution Control Hearings Board Website**
<http://www.eluho.wa.gov/content/11>
- **Chapter 43.21B RCW - Environmental and Land Use Hearings Office – Pollution Control Hearings Board**
<http://app.leg.wa.gov/RCW/default.aspx?cite=43.21B>
- **Chapter 371-08 WAC – Practice and Procedure**
<http://app.leg.wa.gov/WAC/default.aspx?cite=371-08>
- **Chapter 34.05 RCW – Administrative Procedure Act**
<http://app.leg.wa.gov/RCW/default.aspx?cite=34.05>
- **Chapter 90.48 RCW – Water Pollution Control**
<http://app.leg.wa.gov/RCW/default.aspx?cite=90.48>
- **Chapter 173.204 WAC – Sediment Management Standards**
<http://apps.leg.wa.gov/WAC/default.aspx?cite=173-204>
- **Chapter 173-200 WAC – Water Quality Standards for Ground Waters of the State of Washington**
<http://apps.leg.wa.gov/WAC/default.aspx?cite=173-200>
- **Chapter 173-201A WAC – Water Quality Standards for Surface Waters of the State of Washington**
<http://apps.leg.wa.gov/WAC/default.aspx?cite=173-201A>

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Signature



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